DETAILED ACTION

Status of Claims

After the amendment filed on 12/6/2010, claims 20-27 & 43-50 are pending in this

application. Claims 1-7, 14, 15 & 19 were cancelled.

Priority

1.   Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which

papers have been placed of record in the file.

Drawings

2.   The subject matter of this application admits of illustration by a drawing to

facilitate understanding of the invention. Applicant is required to furnish a drawing

under 37 CFR 1.81(c). No new matter may be introduced in the required drawing.

Each drawing sheet submitted after the filing date of an application must be labeled in

the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR

1.121(d).

Information Disclosure Statement

3.   The listing of references in the specification, especially page 1, is not a proper

information disclosure statement. 37 CFR 1.98(b) requires a list of all patents,

publications, or other information submitted for consideration by the Office, and MPEP

§ 609.04(a) states, "the list may not be incorporated into the specification but must be

submitted in a separate paper." Therefore, unless the references have been cited by

the examiner on form PTO-892, they have not been considered.

Claim Rejections - 35 USC § 112

4.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly
> claiming the subject matter which the applicant regards as his invention.

5.   Claims 20-25 & 43 are rejected under 35 U.S.C. 112, second paragraph, as

being indefinite for failing to particularly point out and distinctly claim the subject matter

which applicant regards as the invention. These claims also recite a system in the

preamble but there are no structural elements to make that statement true.

Further, Applicant asserts that the claim element "means to" is a limitation that

invokes 35 U.S.C. 112, sixth paragraph. However, it is unclear whether the claim

element invokes 35 U.S.C. 112, sixth paragraph, because the applicant does not satisfy

the 3-prong test for invoking 35 U.S.C. 112, sixth paragraph. If applicant wishes to have

the claim limitation treated under 35 U.S.C. 112, sixth paragraph, applicant may:

(a)   Amend the claim to include the phrase "means for" or "step for". The

phrase "means for" or "step for" must be modified by functional language, and the

phrase or term must **not** be modified by sufficient structure, material, or acts for

performing the claimed function; or

(b)   Present a sufficient showing that the claim limitation is written as a

function to be performed and the claim does **not** recite sufficient structure, material, or

acts for performing the claimed function to preclude application of 35 U.S.C. 112, sixth

paragraph. For more information, see MPEP § 2181.

Claim Rejections - 35 USC § 101

6.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of
> matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the
> conditions and requirements of this title.

Claims 26, 27 & 44-50 are rejected under 35 U.S.C. 101 because the claimed invention

is directed to non-statutory subject matter. For claims 26 & 27: The broadest

reasonable interpretation of these claims drawn to a machine-readable medium covers

forms of non-transitory tangible media and transitory propagating signals *per se* in view

of the ordinary and customary meaning of machine-readable medium especially since

the specification is silent as to what type of media is encompassed. Claims drawn to

such a machine-readable medium that covers both transitory and non-transitory

embodiments may be amended to narrow the claim to cover only statutory

embodiments by adding the limitation "non-transitory" to the claims. See MPEP

2111.01 for further clarification. For claims 44-50: In order for a method claim to be

statutory it must (1) be tied to another statutory class (such as a particular apparatus) or

(2) transform underlying subject matter (such as an article or materials) to a different

state or thing. These claims currently recite purely mental steps. Please refer to MPEP

2106.IV.B. for further clarification.

Claim Rejections - 35 USC § 102

7.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in
> public use or on sale in this country, more than one year prior to the date of application for patent in
> the United States.

8.   Claims 20-25, 43-50 are rejected under 35 U.S.C. 102(b) as being anticipated by Kurzweil (U.S. Patent Number 6,199,042).

Referring to claims 20 & 45, Kurzweil discloses wherein at least one of said empty reproductions has been created in one of the following plurality of ways - filtering full reproductions of the target language, so that the phonetic information of such full reproductions is eliminated or greatly reduced, while at the same time the prosodic information of said full reproductions is maintained (column 1 line 28-column 2 line 10, column 4 line 34-column 5 line 10 & column 6 lines 40-46),

. - linking syllable sounds wherein said syllable sounds are either equal or different to each other (column 1 line 28-column 2 line 10, column 4 line 34-column 5 line 10 & column 6 lines 40-46),

- after full reproductions, replacing the vocalic sounds with the same vowel, so that the empty reproductions have a similar prosody to the prosody that those full reproductions have (column 1 line 28-column 2 line 10, column 4 line 34-column 5 line 10 & column 6 lines 40-46),

- linking sounds whose wave form is periodic (column 1 line 28-column 2 line 10, column 4 line 34-column 5 line 10 & column 6 lines 40-46),

- after full reproductions, removing consonants so that only vocalic sounds remain, and the resulting reproductions have a similar prosody to the prosody that said full reproductions have (column 1 line 28-column 2 line 10, column 4 line 34-column 5 line 10 & column 6 lines 40-46).

Referring to claims 21 & 46, Kurzweil discloses further comprising

- means to execute one or more exercises, wherein for at least one of said exercises

there exist one or more empty reproductions and one or more real samples of the target

language, so that for at least one of said empty reproductions there is at least one real

sample among said real samples of the target language that has an equivalent prosodic

content (abstract),

- means to present the learner with characterizing information about one or

more of said real samples of the target language (Figs. 3-3D),

- means to present the learner with characterizing information about one or

more of said empty reproductions (column 3 lines 57-60),

- means to detect the actions performed by the learner which associate empty

reproductions with the real samples of the target language that have a

similar prosodic content as they have (Figs. 3-3D).

Referring to claims 22 & 47, Kurzweil discloses wherein said characterizing information

that is presented to the user about said real samples of target languages are the

sonorous reproductions of said real samples of language, i.e., they are full

reproductions (column 1 line 28-column 2 line 10, column 4 line 34-column 5 line 10 &

column 6 lines 40-46).

Referring to claims 23 & 48, Kurzweil discloses wherein said characterizing information

that " is presented to the user about said real samples of target language are the written

transcripts of said real language samples (column 1 line 28-column 2 line 10, column 4

line 34-column 5 line 10 & column 6 lines 40-46).

Referring to claim 43, Kurzweil discloses

a. means to produce aural reproductions that the user will listen to, said aural

reproductions being full reproductions or empty reproductions (abstract) wherein

- full reproductions correspond to real samples of the target language (abstract),

- empty reproductions are not real samples of target language, but they contain

sequences of sounds that reproduce the prosodic patterns of the target language by

variations in tone, intensity or duration (column 3 lines 57-60),

b. means to present the user one or more full reproductions and one or more empty

reproductions (Figs. 3-3D), wherein at least one of said empty reproductions conveys

the prosodic pattern of at least one of said full reproductions (Figs. 3-3D), wherein said

presentation will help the user to learn the prosodic pattern of said full reproduction

(Figs. 3-3D).

Referring to claim 44, Kurzweil discloses

a. providing aural reproductions, that the user will listen to, said aural reproductions

being full reproductions or empty reproductions (abstract), wherein

- full reproductions correspond to real samples of the target language,

- empty reproductions are not real samples of target language, but they contain

sequences of sounds that reproduce the prosodic patterns of the target language by

variations in tone, intensity or duration (column 3 lines 57-60),

b. presenting the user one or more full reproductions and one or more empty

reproductions (Figs. 3-3D), wherein at least one of said empty reproductions conveys

the prosodic pattern of at least one of said full reproductions (Figs. 3-3D), wherein said

presentation will help the user to learn the prosodic pattern of said full reproduction

(Figs. 3-3D).

9.   Claims 26 & 27 are rejected under 35 U.S.C. 102(b) as being anticipated by

Siegel (U.S. Publication Number 2003/0046082).

Referring to claims 26 & 27, Siegel discloses

managing one or more empty reproductions and one or more real samples of a target

language, so that for at least one of said empty reproductions there is at least one real

sample, among said real samples of the target language, that has an equivalent

prosodic content (paragraphs 0007-0009, 0081-0103, 0172 & 0173)

- presenting the learner with characterizing information about one or more of said real

samples of the target language (paragraphs 0007-0009, 0081-0103, 0172 & 0173),

-. presenting the learner with characterizing information about one or more of said

empty reproductions (paragraphs 0007-0009, 0081-0103, 0172 & 0173),

- receiving the association performed by the learner of the empty reproductions with the

real samples of the target language that have a similar prosodic content as they have

(paragraphs 0007-0009, 0081-0103, 0172 & 0173).

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Claim Rejections - 35 USC § 103

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10.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

11.   Claims 24, 25, 49 & 50 rejected under 35 U.S.C. 103(a) as being

unpatentable over Kurzweil in view of Siegel.

Referring to claims 24 & 49, Kurzweil discloses a system as claimed in claim 21.

Kurzweil does not disclose wherein there exists one single empty reproduction in at

least one exercise, and the learner must indicate the real sample or real samples of

target language that correspond to said empty reproduction. However, Siegel teaches

wherein there exists one single empty reproduction in at least one exercise, and the

learner must indicate the real sample or real samples of target language that

correspond to said empty reproduction (paragraphs 0007-0009, 0081-0103, 0171 &

0172). It would have been obvious to one of ordinary skill in the art at the time the

invention was made to include wherein there exists one single empty reproduction in at

least one exercise, and the learner must indicate the real sample or real samples of

target language that correspond to said empty reproduction, as disclosed by Siegel,

incorporated into Kurzweil in order to determine the real voice samples.

Referring to claims 25 & 50, Kurzweil discloses a system as claimed in claim 21.

Kurzweil does not disclose wherein there exists one single real sample of target

language in at least one exercise, and the learner must indicate the empty reproduction

or reproductions that correspond to said real sample of target language.   However,

Siegel teaches wherein there exists one single empty reproduction in at least one

exercise, and the learner must indicate the real sample or real samples of target

language that correspond to said empty reproduction (paragraphs 0007-0009, 0081-

0103, 0171 & 0172). It would have been obvious to one of ordinary skill in the art at the

time the invention was made to include wherein there exists one single empty

reproduction in at least one exercise, and the learner must indicate the real sample or

real samples of target language that correspond to said empty reproduction, as

disclosed by Siegel, incorporated into Kurzweil in order to determine the real voice

samples.

Response to Arguments

12.   Applicant's arguments, see amended claims, filed 12/6/2010, with respect to 35

USC 112 have been fully considered and are persuasive. The rejection of claims 1-7,

14, 15 & 19-27 has been withdrawn. Some claims were canceled and some are

currently amended.

13.   Applicant's arguments with respect to claims 20-27 & 43-50 have been

considered but are moot in view of the new ground(s) of rejection.

Conclusion

14.   Applicant's amendment necessitated the new ground(s) of rejection presented in

this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37

CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KESHA FRISBY whose telephone number is (571)272-8774. The examiner can normally be reached on Monday-Friday 8am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on 571-272-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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